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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

JEFFERSON PACKING HOUSE, LLC,

Plaintiff,

v.

TINA KOTEK, in her official capacity as  
Governor of the State of Oregon, ELLEN  
ROSENBLUM, in her official capacity as  
Attorney General of the State of Oregon, and  
CRAIG PRINS, in his official Capacity as  
Interim Executive Director of the Oregon  
Liquor and Cannabis Commission,

Defendants.

Case No. 3:22-cv-01776-AR

DEFENDANTS' NOTICE OF ADDITIONAL  
AUTHORITY

Defendants hereby provide notice of additional authority from the United States Supreme Court, issued on May 11, 2023, in *National Pork Producers Council v. Ross, et al.*, 143 S.Ct. 1142 (2023). This new controlling authority came to Defendants' attention after the filing of their Reply in Support of Motion to Dismiss (ECF 21) on April 21, 2023. The opinion is relevant additional authority, because it holds that a dormant Commerce Clause challenge must

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fail if it does not validly identify any protectionism of in-state businesses or discrimination against out-of-state businesses.

Specifically, in *National Pork*, the Supreme Court considered a dormant Commerce Clause challenge to a California law (Proposition 12) that forbid in-state sale of pork produced from animals “confined in a cruel manner.” The Supreme Court rejected the challenge. In reaching that decision, the Court reiterated that the “antidiscrimination principle lies at the ‘very core’ of [its] dormant Commerce Clause jurisprudence,” such that no state may use its laws to discriminate purposefully against out-of-state economic interests. *Nat’l Pork*, 143 S.Ct. at 1153. Thus, if a state regulation does not discriminate against out of state commerce or function as a protectionist measure, the dormant Commerce Clause does not inhibit the state’s regulatory authority. *Id.* Because the challengers did not allege that Proposition 12 “advantage[d] in-state firms or disadvantage[d] out-of-state rivals,” the Court held that “the dormant Commerce Clause . . . [was] not at issue.” *Id.* at 1153 (quotation marks and ellipses omitted).

The opinion is therefore relevant additional authority for Defendants’ Motion to Dismiss Plaintiff’s Complaint (ECF 7).

DATED June 5, 2023.

Respectfully submitted,

ELLEN F. ROSENBLUM  
Attorney General

s/ Bijal C. Patel

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